

REMARKS/ARGUMENTS

The Applicants appreciate the attention of the Examiner to the application. This application has been carefully reviewed and this Amendment prepared in view of the Examiner's comments in the Office Action.

In the Office Action, the Examiner rejected claims 1-2 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,053,946 (Wilkinson). Claims 1 and 3 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,116,384 (Wilson). Claims 1 and 3 were also rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,206,934 (Phillips). Finally, claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilkinson.

Although the Office Action indicated that Claim 1 and 3 were rejected with respect to Wilson, the same Action stated that, in view of arguments made in the previous response, the claim rejections with respect to Wilson had been withdrawn. In a telephone conversation between the undersigned attorney and Examiner Snow on April 25, 2003, Examiner Snow confirmed that the rejection with respect to Wilson had been withdrawn and that the Applicant could ignore the rejection is the most recent Office Action. As such, this response will only address the claim rejections with respects to the Wilkinson and Phillips patents.

Claim 1, as amended, is directed to a prosthetic foot that includes a footplate attached to a connector such that the footplate is adapted to rotate about a first axis and flex with respect to a second axis. This multiaxial movement is disclosed in several places in the specification including, for example, page 7, lines 6-21. As such, no new matter is added. The multiaxial range of movement is not, however, anticipated or rendered obvious by any of the cited prior art.

Wilkinson discloses a prosthetic foot that is adapted to flex about a first axis of the foot as is depicted in Figure 4 of the patent. This degree of flexing allows for motion in the anterior-posterior direction. As discussed in a previous amendment, because Wilkinson teaches that “[a]n appropriate fastener 94, such as a rivet, may be used to *secure* the plate 90 to the foot portion 80, Wilkinson does not disclose or suggest that its foot portion could rotate or move in a medial-lateral direction about a second axis. In fact, Wilkinson actually teaches away from such rotation of the connector and the footplate as such rotation would cause the rivet or bolt to snap as the footplate rotated about the horizontal leg of the tubular member.

Because Wilkinson does not disclose a prosthetic foot that has a footplate adapted to rotate about a first and a second axis, the Applicant requests that the Examiner withdraw the rejection of claims 1 and 2 under 35 U.S.C. § 102(e) with respect to the Wilkinson patent.

As with the Wilkinson patent, Phillips also teaches against rotation of the connector and footplate about two axes defined the L-shaped frame of a prosthetic device. Phillips does teach a prosthetic foot that rotates about an axis transverse to that of the footplate through the use of an ankle block 16 “sandwiched between the foot plate 12 and the ankle plate 14.” This ankle block “is preferably glued or bonded to both plates using polyurethane adhesive or other known securement technologies.” Phillips, Col. 3, lines 5-9. This rotational movement about the spring between the ankle plate and the footplate is further illustrated in Figures 5a –5d of the patent. This movement, which is referred to as “rollover” in the patent (col. 10, ll. 11-15) allows the footplate to flex in the anterior-posterior direction. Phillips does not, however, teach about rotation of the footplate about a second axis in the medial-lateral direction. In fact, Phillips teaches away from such rotation as the foam used for the ankle block does not have a unique axis

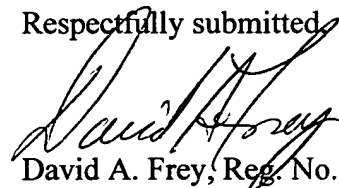
of rotation. As such, Phillips does not disclose a prosthetic foot having a footplate attached to a connector such that the footplate is adapted to rotate about a first axis and flex about a second axis. For this reason, the Applicant requests that the Examiner withdraw the rejection of claims 1 and 3 under 35 U.S.C. § 102(e) with respect to Phillips.

With regard to claim 3 under 35 U.S.C. § 103(a) with respect to Wilkinson, for the reasons discussed above, Wilkinson does not render obvious the prosthetic foot claimed in the instant application. As such, the Applicant requests that the Examiner withdraw this rejection of claim 3 and allow all of the claims pending in the application to issue.

This application is believed to be in condition for allowance and early favorable action is requested. The Examiner is requested to call the undersigned attorney if that would be helpful in resolving any matters that might remain.

Date: April 25, 2003

Respectfully submitted,



David A. Frey, Reg. No. 43,618
One of the Attorneys for the Applicant(s)
GARDNER CARTON & DOUGLAS, LLC
191 N. Wacker Drive
Suite 3700
Chicago, IL 60606
Phone: 312-569-1478
Fax: 312-569-3478

In re Appln. of Todd A Ku
Application No. 09/558,570
Reply to Final Office Action of Feb. 26, 2003

CERTIFICATE OF MAILING

I hereby certify that this Response to Final Office Action and its enclosures are being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Box AF, U.S. Patent and Trademark Office Washington, D.C. 20231.

Date: April 25, 2003

Aida Blekman

CH02/22241789.1